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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 367 OF 2015

Mr. Ritesh Harkishan RathodPetitioner
versus
1. Mr. Adil Rehman Shamsi
2. The State of MaharashtraRespondents

Mr. Mubin Solkar i/b. Ms. Tahera Qureshi, advocate for the petitioner.
Ms. Nikita Ajwani, advocate for respondent No.1.
Mr. K. V. Saste, APP for the State.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATED : 30th JANUARY, 2015.

P.C.:

Heard learned counsel appearing for the respective parties.

2. This petition is filed under Article 226 of the Constitution of India read with provisions of Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings of criminal case No.416/PW/2008 pending on the file of learned Additional Chief Metropolitan Magistrate's, 2nd Court at Mazagaon, Sewri, Mumbai.

3. At the instance of respondent No.1, Pydhonie Police Station registered C.R.No.97 of 2008 on 22nd April, 2008 against the petitioner for offences punishable under Sections 406 and 420 of the I.P.C. After completion of investigation, the investigating agency filed charge-sheet which was numbered as criminal case No.544/PW/2011.

4. During the pendency of the said criminal case, efforts for reconciliation were made and the dispute between the petitioner and respondent No.1 was amicably settled. In pursuance of understanding arrived at between the parties, the present petition is filed for quashing the proceedings of the said criminal case by consent. Respondent No.1 has filed an affidavit dated 29th January, 2015. In paragraph 6 of the said affidavit, he has stated that he has no objection for quashing and setting-aside the proceedings of the said criminal case. Respondent No.1 is personally present before the Court. On being questioned, he specifically stated that he has gone through the affidavit and has fully understood the contents thereof and has no objection, if the proceedings arising out of criminal case No. 416/PW/2008 are quashed and set-aside. He also stated that he is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

5. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]**, we find that no purpose

would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

6. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, we are of the considered view that there is no impediment in quashing the criminal proceedings. However, at the same time, costs need to be saddled on the parties for using the police and judicial mechanism for settling their personal disputes.

7. Accordingly, the petition is allowed in terms of prayer clause (a) subject to payment of cost of Rs.5000/- by the petitioner to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. The petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today.

8. Subject to above, the petition stands disposed of.

9. All concerned, to act upon a copy of this order, duly authenticated by the Registry of this Court.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)